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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3428 OF 2007

M/s.Serlite Industries (I) Ltd..Petitioner

Versus

Union of India & Ors. .....Respondents

Mr. Vikram Nankarni with Mr.Vipin Jain i/b. Shri P.K.Shetty, for the Petitioner

Mr. M.I. Sethana, Senior Advocate for respondents.

CORAM: F.I. REBELLO & J.P.DEVADHAR,JJ.

DATE : 3RD AUGUST, 2007

P.C.

. Rule. Heard forthwith.

2. It is the grievance of the petitioner that they were called upon to refund a sum of Rs.75,61,329/- along with interest at the rate of 15% per annum towards the deemed export duty drawback. The demand was made by Revenue on the ground that the deemed export duty drawback was obtained by fraudulent manner against bogus supplies.

2. The petitioners by the Advocate’s notice dated 28th September, 2006 addressed to the

respondents had pointed out that they were not given an opportunity of being heard before the order was passed. The petitioners by the same communication had informed the respondents that they had paid the said amount under coercion..In response to the said letter of 28th September, 2006 they were informed that the office had already issued a letter of 31st May, 2006 and a copy of the letter was enclosed with the same.

3. The demand for refund would result in civil consequences. Once there are civil consequences the respondents were duty bound to give the petitioner an opportunity of hearing. From the record it appears that such an opportunity was not granted. In the light of that this petition can be disposed of by issuing the following directions:-

(i) The letter dated 31st May, 2006/1st June, 2006 be treated as show cause notice. It will be open to the petitioners to file reply to the same within three weeks from today. On such reply being filed the respondent No.4 to give a hearing to the petitioners and thereafter pass appropriate orders according to law. In the event the respondent No.4 calls upon the Revenue to refund the amount, the amount to be refunded to the petitioners at any rate not later than four weeks from the date of the

order, failing which the amount will carry interest at the rate of 15% per annum from the date of this order. The respondent No.4 to dispose of the adjudication proceedings not later than three months from the reply being filed by the petitioner.

(ii) It is made clear that all issues and contentions are left open for consideration by respondent No.4. Writ Petition disposed of accordingly.

(J.P. DEVADHAR, J.) **(F.I.REBELLO, J.)**